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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,947	04/27/2001	Bradford G. Ackerman	SP01-095	1336

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CORNING INCORPORATED
SP-TI-3-1
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/26/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/844,947

Applicant(s)

ACKERMAN ET AL.

Examiner

John Hoffmann

Art Unit

1791


--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 31 October 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


John Hoffmann
Primary Examiner
Art Unit: 1791

12-17-07

Continuation of 10. Other (including any explanation in support of the above items): As to item 2) incorrect status is used. Claimed 23 has not been cancelled its status is "rejected" and is "appealed". Claims cannot be amended in an Appeal Brief. A proper amendment is needed. As to item 5 - it is unclear whether 23 is suppose to be included. Appellant asserts it was previously cancelled but in various places throughout the Brief there is indication it is not cancelled (for example page 10 - part B). Also, there are only 2 grounds of rejection. The bottom of page 11 refers to 35 USC 102 or 103 - there is no such rejection - This heading must be deleted. Claim 23 has not been cancelled nor withdrawn from appeal - it should not be lined through. As to 8: there is no statement setting forth in the record where the evidence (C1 and C2) were entered by the Examiner. If it is cited merely as legal precedent, it is not evidence. It is noted that the Board has full access the USPQ.